

LUKE W. COLE, California Bar No. 145,505
CAROLINE FARRELL, California Bar No. 202,871
BRENT J. NEWELL, California Bar No. 210,312
Center on Race, Poverty & the Environment
47 Kearny St, Suite 804
San Francisco, CA 94108
415/346-4179 • fax 415/346-8723

NANCY S. WAINWRIGHT, Alaska Bar No. 8711071
Law Offices of Nancy S. Wainwright
13030 Back Road, Suite 555
Anchorage, AK 99515-3358
907/345-5595 • fax 907/345-3629

Attorneys for Plaintiffs Enoch Adams, Jr., Leroy
Adams, Andrew Koenig, Jerry Norton, David
Swan and Joseph Swan

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA AT ANCHORAGE

ENOCH ADAMS, JR., LEROY ADAMS,
ANDREW KOENIG, JERRY NORTON
DAVID SWAN and JOSEPH SWAN,

Plaintiffs,

v.

TECK COMINCO ALASKA INCORPORATED

Defendant.

NANA REGIONAL CORPORATION and
NORTHWEST ARCTIC BOROUGH,

Intervenors-Defendants.

Case No. A04-49 (JWS)

**DECLARATION OF LUKE
COLE IN SUPPORT OF
OBJECTIONS TO LIABILITY
WITNESS LIST AND MOTIONS
TO EXCLUDE WITNESSES
AND EVIDENCE THAT IS
NOT RELEVANT**
(Evidence Code §402)

1 I, Luke Cole, declare:

2 1. I am over 18 years of age and not a party to this action.

3 2. Attached as Exhibit 1 is a true and correct copy of pages TC 050729-30 and TC
4 050734 RD from Trial Exhibit 1, the October 2007 discharge monitoring report. This exhibit is
5 admitted in this litigation.

6 3. Attached as Exhibit 2 is a true and correct copy of pages 1 and 5 from Trial Exhibit
7 1002, the 2006 Compliance Order by Consent entered into between Teck Cominco and the US
8 EPA. This exhibit is admitted in this litigation.

9 4. I have reviewed the report of Joyce Tsuji and the supplemental report of Joyce Tsuji,
10 as well as taken Joyce Tsuji's deposition. The opinions offered in the two reports concern human
11 health, water in the Wulik River, Kivalina drinking water, and biota.

12 5. I have reviewed the Exhibit List submitted jointly by Teck Cominco and NANA
13 [Docket 194], and also the Exhibit List submitted by the Northwest Arctic Borough [Docket
14 191]. Teck Cominco's Exhibit List contains 802 items. The Borough's list contains four items.
15 The Adams plaintiffs stipulated with defendants to submit 52 joint exhibits as well, which are
16 listed on the Joint Exhibit List [Docket 195]. Nowhere among the 858 exhibits are any authored
17 by Exponent, American Meteorburst Corp., Dryden Instruments or Ecology and Environment.

18 6. TIE/TRE refers to Toxicity Identification Evaluation/Toxicity Reduction Evaluation,
19 which is a step required by Teck Cominco's permits after a repeated violation of its WET test
20 permit limitations.

21 7. The parties have stipulated that all timely disclosed laboratory tests are admitted into
22 evidence in this matter.

23
24 I declare under penalty of perjury that the foregoing is true and correct. Executed this 29th
25 day of January 2008 at San Francisco, California.

26
27 /S/ Luke Cole
28 Luke Cole

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of January 2008, a true and correct copy of the foregoing Cole Declaration was served, via electronic mail, on the below identified parties of record:

Sean Halloran
Hartig Rhodes
717 K Street
Anchorage, AK 99501

Nancy S. Wainwright
Law Offices of Nancy S. Wainwright
13030 Back Road, Suite 555
Anchorage, Alaska 99515-3538

James E. Torgerson
Heller Ehrman White & McAuliffe LLP
510 L Street, Suite 500
Anchorage, Alaska 99501-1959

David S. Case
Landye Bennett Blumstein LLP
701 W. 8th Ave., Suite 1200
Anchorage, AK 99501

Thane Tienison
Landye Bennet Blumstein
1300 Southwest Fifth Ave, Suite 3500
Portland, OR 97201

/S/

Luke Cole